

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

TROY L. MCCULLEY,

§

Plaintiff,

§

v.

§

JAMES MCCORMICK, ET AL.,

§

§

Defendants.

§

ORDER

Plaintiff Troy McCulley, an inmate proceeding *pro se*, filed the above-styled and numbered civil action complaining of alleged violations of his constitutional rights. The case was referred to the United States Magistrate Judge.

Defendant James McCormick moved for summary judgment based upon Plaintiff's failure to exhaust administrative remedies. Docket No. 38. After Plaintiff responded, Defendant filed a reply acknowledging that Plaintiff was correct and that he had exhausted his administrative remedies. The Magistrate Judge issued a Report recommending the motion for summary judgment be denied, to which neither party objected. Docket No. 54.

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (Docket No. 54) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the Defendant James McCormick's motion for summary judgment on the issue of exhaustion of administrative remedies (Docket No. 38) is **DENIED**.

So ORDERED and SIGNED this 24th day of March, 2021.

Robert W. Schroeder III
ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE